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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 8, 2001

STATE CORPORATION COMMISSION

v.

AIRCABLE OF ROANOKE, LLC,
DIGITAL BROADCAST CORPORATION
Defendants

CASE NO.SEC000069
CASE NO.SEC000072

ORDER DENYING PETITION FOR RECONSIDERATION

On June 4, 2001, Defendants filed in these cases a petition styled "Petition For Reconsideration". In its petition Defendants requested that the "Commission reconsider its May 24, 2001 Order Granting Extension of TRO." In its Petition Defendants alleged and stated:

1. On May 18, 2001, the Commission's Division of Securities and Retail Franchising ("Division") filed a motion styled a "Motion for Extension of Temporary Injunction."
2. Defendants proffered a Motion to Dismiss, attached hereto as Exhibit "A" and by reference incorporated herein.
3. On May 24, 2001, the Commission granted said Motion.
4. For reasons cited in Defendants' Motion to Dismiss, the Commission's Order is ultra vires.
5. Furthermore, SCC Rule 8.9 provides that a Commission's "orders...shall remain under the control of the Commission and subject to modification or vacated for twenty-one (21) days

after the date of entry, and no longer." The Commission's original TRO was entered January 25, 2001, and may only be "modified" for 21 days thereafter. The Division's May 18, 2001 "Motion", and the Commission's May 24, 2001 "Order", are violative of SCC Rule 8.9.

Upon consideration of said petition, the State Corporation Commission is of the opinion and finds that the request for extension of the temporary restraining order was based upon independent motion, affidavit, and grounds, separate from the original motion for temporary injunction. As such, the Commission granted an extension for the temporary injunction; it did not modify its original order. Therefore, the Petition for Reconsideration is denied.